

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID W. KUBALA,

Defendant.

CASE NO. CR20-0183-JCC

ORDER

This matter comes before the Court on Defendant's unopposed Motion to Seal (Dkt. No. 39) an exhibit to his sentencing memorandum (Dkt. No. 40).

The First Amendment protects the public's right of access to criminal trials. *See, e.g., Globe Newspaper Co. v. Super. Ct. for Norfolk Cnty.*, 457 U.S. 596, 606 (1982). The public also has a common law right to inspect and copy public records, including those from judicial proceedings. *See Nixon v. Warner Commc'ns*, 435 U.S. 589, 597 (1978). But these rights are not absolute. They must yield when (1) sealing a document serves a compelling interest, (2) that is substantially likely to be harmed if the document is not sealed, and (3) there are no less restrictive alternatives for protecting the interest. *See United States v. Doe*, 870 F.3d 991, 998 (9th Cir. 2017).

The exhibit at issue (Dkt. No. 40) contains a confidential psychological assessment and supporting materials. Keeping it under seal serves a compelling interest that is likely to be

1 harmed if it is not sealed, and no less restrictive alternatives would protect the interest.
2 Accordingly, the Court finds good cause and the motion to seal (Dkt. No. 39) is GRANTED. The
3 Clerk is DIRECTED to maintain Docket Number 40 under seal.

4 DATED this 9th day of December 2022.

5
6
7 A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

8 John C. Coughenour
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26